

**Tennessee Board of Medical Examiners
September 1, 2004**

Teleconference Minutes

A teleconference for the Board of Medical Examiners was held at 3:00 p.m. in the Assistant Commissioner's Conference Room located on the First Floor of the Cordell Hull State Office Building on September 1, 2004.

Members in attendance electronically: Dr. Subhi Ali

Member in attendance: Dr. Sam Barnes, Nina Yeiser

Staff Present: Rosemarie Otto, Executive Director; Dr. Larry Arnold, Medical Director; Robert J. Kraemer, Jr., General Counsel; Joseph Schmidt, Attorney for the State, Marsha Arnold, Unit Manager

A teleconference was held to hear the response of Dr. Rosarie Dubrule to the summary suspension of his medical license by the Board of Medical Examiners on August 24, 2004.

A roll call of the panel was held to determine if each participant could hear the response of the other. Dr. Ali made a motion to proceed to conduct the meeting electronically and Ms. Yeiser seconded the motion. A roll call vote was held to accept the motion and the motion was adopted unanimously.

A motion was made by Dr. Ali to proceed to conduct the meeting electronically by determining that the matter to be discussed met the following requirements: The subject matter required timely action, the physical presence of all members was not possible considering the period of time required for action, and the participation by some or all of the members of the board by electronic or other means was necessary. Ms. Yeiser seconded the motion. A roll call vote was held to accept the motion and the motion was adopted unanimously. Ms. Arnold reminded members to please identify themselves when speaking and turned the meeting over to Mr. Kraemer from the Office of General Counsel.

Mr. Kraemer instructed the panel as to procedural matters and asked if each member had a copy of the Board's previous order of summary suspension. Each member acknowledged they did. Mr. Kraemer introduced Mr. Joseph Schmidt of the Office of General Counsel who would be representing the state and Rosaire Dubrule, M.D. who was present but not represented by counsel. He then asked the members to elect a chair for the proceeding. Dr. Ali made a motion, seconded by Ms. Yeiser naming Dr. Barnes chair the meeting. A roll call vote was held to accept the motion and the motion was adopted unanimously.

Dr. Dubrule made an opening statement by introducing himself and asking the Board to lift the summary suspension of his medical license. He stated he had new information and that some of the information they had received at the summary suspension hearing was erroneous.

Mr. Joseph Schmidt made a brief opening statement referring back to the testimony of agents/investigators from the Tennessee Bureau of Investigations and the Department of Health as well as the photographs submitted at the summary suspension hearing.

Dr. Dubrule testified that while some of the findings of fact were true, they were largely overstated and/or irrelevant. He stated that the reason he kept so many loaded weapons around the office was for protection since he had been threatened and been broken into. He denied, however, that any of the weapons were easily accessible by patients. He testified that it is his belief that the weapons seized by TBI upon entry into the premises were moved from secure areas to patient areas by them to make him look bad. He admitted that he kept large quantities of narcotics around the office because local pharmacies sometimes refused to fill his prescriptions. He further admitted that he prescribed or dispensed hydrocodone and valium to his wife. Further, he adamantly denied that he lacked a current CLIA certificate (although he could not produce one). He did produce expired CLIA certificates along with a petition signed by eighty-two (82) patients asking the Board to reconsider their summary suspension order. Dr. Dubrule testified that he never had a single patient complaint about the cleanliness of his office but that his office, while not pristine, could be cleaner. He denied that OSHA or TOSHA regulations were violated with respect to out of date vaccines or vaccines stored in refrigerators with food and beverages. He addressed the state's allegations of no running water in examination rooms by saying that when he was trained, running water was not required. Questions were also raised regarding an "involuntary" period of time (between 1989-1994) when he could not practice medicine in New Hampshire. Dr. Dubrule further testified that the TBI had "tossed" his office prior to the photographs being taken. He admitted that he had no financial records, but insisted that his narcotic log was taken by the TBI. After brief closing statements by Dr. Dubrule, Joseph Schmidt representing the state and referring to the transcript of the earlier hearing, reminded the Board that a member had asked about the photographs taken of the office. Specifically, the member asked if the agents/investigators had moved anything prior to the pictures being taken and the answer was "no." Further, Ms. Dubrule had told investigators that there was no narcotic log kept at the office so it was not possible that the TBI seized it as Dr. Dubrule alleged. Mr. Schmidt then asked the Board to uphold their previous order summarily suspending the medical license of Dr. Dubrule.

Panel members deliberated. Ms. Yeiser made a motion to uphold the suspension of the medical license of Dr. Rosarie Dubrule and Dr. Ali seconded the motion. The motion was approved unanimously by a roll call vote.

The meeting was concluded at 5:00 p.m.

These minutes were ratified by the Board on September 21, 2004.

Allen Edmonson, MD

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